

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH D. CARVER,

Plaintiff,

v.

KELLY CUNNINGHAM, *et al.*,

Defendants.

No. C09-5648 FDB/KLS

ORDER DENYING MOTION FOR MORE
DEFINITE STATEMENT

Before the court is Defendants' Motion for More Definite Statement and to Strike Dkt. # 28. Dkt. 31. Upon review of the motion and balance of the record, the court finds that the motion should be denied as moot in light of the court's Order to Amend or Show Cause (Dkt. 32).

Following review of Defendants' motion to dismiss (Dkt. 19), the court granted Mr. Carver leave to amend his complaint. Dkt. 27. On April 22, 2010, Mr. Carver filed a "Response to Defendants Assertion That Plaintiff Has Failed to State a Cognizable Claim Along with His Amended Complaint." Dkt. 28 (pp. 1-7). This pleading includes a prayer for relief, Mr. Carver's signature and a certificate of service. *Id.*, pp. 6-7. Appended to the bottom of this document is a second document entitled "Part 2 of Plaintiff Amended Complaint. Dkt. 28 (pp. 8-15) in which Mr. Carver states additional claims and requests additional relief. *Id.*, pp. 14-15.

ORDER TO AMEND OR SHOW CAUSE- 1

1 By Order dated May 4, 2010, the court advised Mr. Carver that his amended complaint
2 was deficient, that an amended complaint operates as a complete substitute for (rather than a
3 mere supplement to) the present complaint, that he may not proceed with two complaints in one
4 action and that he must include all of his factual allegations, legal claims, and requests for relief
5 in his amended complaint before the court will order service. Dkt. 32. Mr. Carver has been
6 given leave to give his amended complaint on or before May 28, 2010.
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8 In light of this Order, Defendants' motion requesting a more definite statement and to
9 strike Mr. Carver's filing at Dkt. 28 is moot.

10 Accordingly, it is **ORDERED**:

- 11 (1) Defendants' Motion for More Definite Statement and to Strike Dkt. 28 is
12 **DENIED as moot.**
13 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.
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15 **DATED** this 26th day of April, 2010.

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17 Karen L. Strombom
18 United States Magistrate Judge
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